

**STATE OF MICHIGAN
COURT OF CLAIMS**

Committee To Ban Fracking In
Michigan and Luanne Kozma,

Plaintiffs,

v

Case No. 18-000274-MM
Hon. Stephen L. Borrello

Secretary Of State Ruth Johnson,
Director Of Elections Sally
Williams, in their official capacities, And
Board Of State Canvassers,

Defendants.

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Plaintiffs' First Interrogatories and Requests

Please respond timely to the following discovery questions and requests under
MCR 2.300 et seq.

1. As seen in exhibit 21 of the Kozma affidavit in *CBFM v Director of Elections*, No. 16-000122-MM, defendants and the court knew during that litigation that petition sheets, on which CBFM was continuing to collect additional signatures after the filing deadline had passed for the November 2016 election, bore the statement that the proposal was to be “voted on in the November 8, 2016 General Election.” During the litigation defendants told the court of claims that if and when CBFM obtained the required additional signatures it “will be able to file their petition.” Defendants repeated this to the court of appeals and supreme court. Now, after CBFM obtained the required number with the same quoted wording on the sheets, defendants argue differently, that due to the quoted wording CBFM could not file and in fact did not file the signatures on November 5, 2018. Please provide all non-confidential documents, emails, meeting minutes, and internal correspondence among the defendants or with others regarding the change of heart.

2. Defendants acknowledge that CBFM “tendered” signatures on November 5, 2018. Please provide all non-confidential documents, emails, meeting minutes, and internal correspondence among the defendants or with others establishing that “tendering” is not “filing.”

3. Defendants state that “ordinarily” petition sponsors include an election date, on the face of petition sheets. One sponsor who did not was Abrogate Prohibition Michigan, which filed a formatted petition sheet with no election date, for a

constitutional amendment on August 14, 2017, which the canvassers approved as to form three days later (attached). Please produce copies of the faces of all formatted statutory or constitutional initiative petition sheets which the canvassers approved, or which they canvassed, from 1963 to date.

4. Supplementing the previous question, please include the statutory initiative petition to repeal the nonresident city income tax authorized by the uniform city income tax ordinance, contained in 1964 PA 284, which was the subject of OAG 5528 (1979), holding “In the event that there are insufficient signers on an initiative petition for the November general election ballot of 1980, the same petition forms may be circulated for filing for the 1982 general election ballot,” as well as the request, attachments, correspondence, and notes of conversations with Senator Gilbert DiNello who requested OAG 5528.

5. The legislature rejected 2009 SB 952 which would have provided that petition sheets must state on the front: “This proposal is to be voted on at the November [date of election] general election.” [https://www.legislature.mi.gov/\(S\(3bwkdmvvsagv1kneyn05qooj\)\)/mileg.aspx?page=getobject&objectname=2009-SB-0952&query=on](https://www.legislature.mi.gov/(S(3bwkdmvvsagv1kneyn05qooj))/mileg.aspx?page=getobject&objectname=2009-SB-0952&query=on) . Please provide all non-confidential documents, emails, meeting minutes, and internal correspondence among the defendants or with others regarding the desirability or necessity of initiative proponents designating an election date on formatted petition sheets, and state why defendants' guidelines for initiative and

referendums,

https://www.michigan.gov/documents/sos/Ini_Ref_Pet_Website_339487_7.pdf, omit any prescription for designating an election to be voted on.

6. Please identify the date, circumstances, and reasons regarding any other instance of initiative signature sheets tendered by a proponent being rejected by the SOS for filing, particularly since *Citizens Protecting Michigan's Constitution v SOS*, 280 Mich 273 (2008) when the court of appeals at page 286 instructed SOS “Upon the filing of a signed petition, the Secretary must 'immediately' notify the Board by first-class mail. MCL 168.475(1). The Secretary has no further duties until after the Board deems a petition sufficient....”

7. Complaint paragraph 33 asserts the SOS agent acknowledged the canvassers could overrule her rejection of CBFM's signatures. Among the movants for summary disposition is the canvasser board. Since this suit was filed the canvassers have met just once, for 11 minutes on February 25. The attached draft minutes do not show that the canvassers' attitude as to this suit was discussed – whether to fight it or settle it – nor do they show that the canvassers went into executive session where that might have been discussed. Complaint exhibit 3 at pages 4-5 notes that when the canvassers are eventually consulted on this matter (even in executive session) Member Norm Shinkle is expected to recuse himself. Please identify the authority for a motion to be filed on the canvassers' behalf without obtaining their instructions.

Respectfully submitted,

/s/ Ellis Boal

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Dated: March 21, 2019.

INITIATIVE PETITION
AMENDMENT TO THE CONSTITUTION

This proposed constitutional amendment would: (1) make the use of the cannabis plant lawful in Michigan; (2) allow for the agricultural, personal, recreational, medicinal, research, development, educational, industrial, and commercial uses, as well as other uses; (3) nullify all prohibitions of cannabis in any form; (4) impose no fines, no use taxes, no use taxes, no penalties, no regulations to diminish or prohibit use upon we the people. The full text of the proposed amendment, adding Section 28 to Article 1 of the State Constitution, is printed on the reverse side of this petition. This proposal is to be voted on in the next General Election.

We, the undersigned qualified and registered electors, residents in the county of _____, State of Michigan, respectively petition for amendment to constitution.

WARNING - A person who knowingly signs this petition more than once, signs a name other than his or her own, signs when not a qualified and registered elector, or sets opposite his or her signature on a petition, a date other than the actual date the signature was affixed, is violating the provisions of the Michigan election law.

INDICATE CITY OR TOWNSHIP IN WHICH REGISTERED TO VOTE		SIGNATURE	PRINTED NAME	STREET ADDRESS OR RURAL ROUTE	ZIP CODE	DATE MONTH DAY	OF DAY	SIGNING YEAR
CITY OF <input type="checkbox"/>	TOWNSHIP OF <input type="checkbox"/>	1.						
CITY OF <input type="checkbox"/>	TOWNSHIP OF <input type="checkbox"/>	2.						
CITY OF <input type="checkbox"/>	TOWNSHIP OF <input type="checkbox"/>	3.						
CITY OF <input type="checkbox"/>	TOWNSHIP OF <input type="checkbox"/>	4.						
CITY OF <input type="checkbox"/>	TOWNSHIP OF <input type="checkbox"/>	5.						
CITY OF <input type="checkbox"/>	TOWNSHIP OF <input type="checkbox"/>	6.						
CITY OF <input type="checkbox"/>	TOWNSHIP OF <input type="checkbox"/>	7.						
CITY OF <input type="checkbox"/>	TOWNSHIP OF <input type="checkbox"/>	8.						
CITY OF <input type="checkbox"/>	TOWNSHIP OF <input type="checkbox"/>	9.						
CITY OF <input type="checkbox"/>	TOWNSHIP OF <input type="checkbox"/>	10.						

RECEIVED/FILED
MICHIGAN DEPT OF STATE
2017 AUG 14 PM 4:52
ELECTIONS/GREAT SEAL

SAMPLE

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he or she is 18 years of age or older and a United States citizen; that each signature on the petition was signed in his or her presence, that he or she has neither caused nor permitted a person to sign the petition more than once and has no knowledge of a person signing the petition more than once; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition, the person signing the petition was at the time of signing a registered elector of the city or township indicated preceding the signature, and the elector was qualified to sign the petition.

☐ If the circulator is not a resident of Michigan, the circulator shall make a cross or check mark in the box provided, otherwise each signature on this petition sheet is invalid and the signatures will not be counted by a filing official. By making a cross or check mark in the box provided, the undersigned circulator asserts that he or she is not a resident of Michigan and agrees to accept the jurisdiction of this state for the purpose of any legal proceeding or hearing that concerns a petition sheet executed by the circulator and agrees that legal process served on the Secretary of State or a designated agent of the Secretary of State has the same effect as if personally served on the circulator.

CIRCULATOR- Do not sign or date certificate until after circulating petition.

(Signature of Circulator) _____ (Date) _____
(Printed Name of Circulator) _____

(Complete Residence Address (Street and Number or Rural Route) [Do Not Enter a Post Office Box] _____

(City or Township, State, Zip Code) _____ (County of Registration, If Registered to Vote, of a Circulator who is not a Resident of Michigan.) _____

WARNING - A circulator knowingly making a false statement in the above certificate, a person not a circulator who signs as a circulator, or a person who signs a name other than his or her own as circulator is guilty of a misdemeanor. Paid for with regulated funds by Abrogate Prohibition Michigan, 3867 E. Shaffer Rd. Midland, Mi. 48642.

INITIATIVE PETITION AMENDMENT TO THE CONSTITUTION

This proposal would add a new section 28 to Article 1 of the State Constitution to read as follows:

Section 28

- (1) The agricultural, personal, recreational, medicinal, commercial, industrial and other uses of Cannabis in any form by any person shall be lawful activity.
- (2) All prohibitions on the use of cannabis in any form by any persons are hereby null and void.
- (3) Use of Cannabis shall include, but not be limited to:
The possession, consumption, growing, manufacture, delivery, treatment, purchase, sale, transfer, and or transport of any plant, seed, flower, leaf, mixture, derivative, extract, product and or preparation of any part of any cannabis plant for all personal, recreational, religious, medicinal, research, development, educational, commercial and industrial purposes within the state of Michigan.
- (4) No excise tax, no fines, no fees, no regulation to diminish the use of Cannabis shall be levied or allowed.
- (5) This amendment shall be retroactive.
- (6) No agency of the state shall receive monies from the federal government or any other entity to be used in the promotion of continued prohibitions of Cannabis.
- (7) Severability: If any section, subsection or part of this amendment is for any reason held to be invalid or unconstitutional, the remaining sections, subsections, or parts of those sections shall not be affected, but will remain in full force and effect.

SAMPLE



STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

Meeting
of the
Board of State Canvassers

August 17, 2017
Lansing Center, 333 East Michigan Avenue
Lansing, Michigan

Called to order: 10:06 a.m.

Members present: Norm Shinkle – Chairperson
Julie Matuzak – Vice Chairperson
Colleen Pero
Jeannette Bradshaw

Members absent: None.

Agenda item: Consideration of meeting minutes for approval.

Board action on agenda item: The Board approved the minutes of the June 21, 2017 meeting as submitted. Moved by Matuzak; supported by Pero. Ayes: Shinkle, Matuzak, Pero, Bradshaw. Nays: None. Motion carried.

Agenda item: Recording of the results of the August 8, 2017 special primary for the office of State Representative, 1st District.

Board action on agenda item: The Board recorded the results of the August 8, 2017 special primary for the office of State Representative, 1st District as certified by the Wayne County Board of Canvassers on August 16, 2017. Moved by Bradshaw; supported by Pero. Ayes: Shinkle, Matuzak, Pero, Bradshaw. Nays: None. Motion carried.

Agenda item: Canvass and certification of the August 8, 2017 special primary for the office of State Representative, 109th District.

Board action on agenda item: Based on an examination of the returns received by the Secretary of State for the August 8, 2017 special primary, the Board certified that the attached report is a true statement of votes cast for the office of State Representative, 109th District. The Board further

certified that the persons named in the attached List of Nominees are duly nominated for the office of State Representative, 109th District, and are qualified to appear as candidates for that office on the November 7, 2017 special election ballot. The Board also authorized staff of the Bureau of Elections to represent the Board in any recount of votes cast at the August 8, 2017 special primary. Moved by Matuzak; supported by Pero. Ayes: Shinkle, Matuzak, Pero, Bradshaw. Nays: None. Motion carried. Time of certification: 10:09 a.m.

Agenda item: Consideration of the form of an initiative petition submitted for approval by MI Time to Care, P.O. Box 1502, Royal Oak, Michigan 48068. (This proposal would enact the Earned Sick Time Act, requiring employers to provide sick leave for personal and family health needs subject to certain conditions.)

Board action on agenda item: The Board approved the form of the initiative petition sponsored by MI Time to Care with the understanding that the Board's approval does not extend to: (1) The substance of the proposal which appears on the petition; (2) The substance of the summary of the proposal which appears on the signature side of the petition; or (3) The manner in which the proposal language is affixed to the petition. Moved by Pero; supported by Matuzak. Ayes: Shinkle, Matuzak, Pero, Bradshaw. Nays: None. Motion carried.

Agenda item: Consideration of the form of an initiative petition to amend the State Constitution submitted for approval by Abrogate Prohibition Michigan, 3867 East Shaffer Road, Midland, Michigan 48642. (This proposal would amend the Michigan Constitution to legalize the use of marijuana for agricultural, personal, recreational, commercial or other purposes.)

Board action on agenda item: The Board approved the form of the initiative petition to amend the State Constitution as submitted by Abrogate Prohibition Michigan with the understanding that the Board's approval does not extend to: (1) The substance of the proposal which appears on the petition; (2) The substance of the summary of the proposal which appears on the signature side of the petition; or (3) The manner in which the proposal language is affixed to the petition. Moved by Bradshaw; supported by Matuzak. Ayes: Shinkle, Matuzak, Pero, Bradshaw. Nays: None. Motion carried.

Agenda item: Consideration of the form of an initiative petition to amend the State Constitution submitted for approval by Voters Not Politicians Ballot Committee, P.O. Box 8362, Grand Rapids, Michigan 49518. (This proposal would amend the Michigan Constitution to create the Independent Citizens Redistricting Commission and authorize the Commission to adopt reapportionment plans for Congressional, State Senate and State House of Representatives districts.)

Board action on agenda item: The Board approved the form of the initiative petition to amend the State Constitution as submitted by Voters Not Politicians with the understanding that the Board's approval does not

extend to: (1) The substance of the proposal which appears on the petition; or (2) The substance of the summary of the proposal which appears on the signature side of the petition; or (3) The manner in which the proposal language is affixed to the petition; or (4) Whether the petition properly characterizes those provisions of the Constitution that are altered or abrogated by the proposal if adopted. Moved by Pero; supported by Matuzak. Ayes: Shinkle, Matuzak, Pero, Bradshaw. Nays: None. Motion carried.

Agenda item: Such other and further business as may be properly presented to the Board.

Board action on agenda item: None.

Adjourned: 11:50 a.m.




Chairperson



Vice-Chairperson



Member



Member

September 19, 2017
Date



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

DRAFT

**Meeting
of the
Board of State Canvassers**

**February 25, 2019
Delta Charter Township Hall
Lansing, Michigan**

Called to order: 10:10 a.m.

Members present: Norm Shinkle – Chairperson
Jeannette Bradshaw
Aaron Van Langevelde

Members absent: Julie Matuzak – Vice Chairperson

Agenda item: Consideration of meeting minutes for approval.

Board action on agenda item: The Board approved the minutes of the November 26, 2018 meeting as submitted. Moved by Shinkle; supported by Van Langevelde. Ayes: Shinkle, Van Langevelde, Bradshaw. Nays: None. Motion carried.

Agenda item: Election of Board Chairperson and Vice-Chairperson for terms ending January 31, 2021.

Board action on agenda item: Jeannette Bradshaw was elected to serve as chairperson for the term ending January 31, 2021. Moved by Shinkle; supported by Van Langevelde. Ayes: Shinkle, Van Langevelde, Bradshaw. Nays: None. Motion carried.

Aaron Van Langevelde was elected to serve as the vice chairperson for the term ending January 31, 2021. Moved by Shinkle; supported by Bradshaw. Ayes: Shinkle, Van Langevelde, Bradshaw. Nays: None. Motion carried.

Agenda item: Consideration of multiple proposed *de minimis* modifications to the ES&S voting system:

Board action on agenda item: The Board approved multiple *de minimis* modifications to the ES&S voting system:

1. The Board approved the use of texture-free exterior housing for the ES&S EVS 6010 Voting System Model DS-200 precinct tabulators in the State of Michigan. Moved by Shinkle; supported by Van Langevelde. Ayes: Bradshaw, Van Langevelde, Shinkle. Nays: None. Motion carried.
2. The Board approved the use of Okidata Model B431D, B431DN and B432DN printers for the ES&S EVS 6010 Voting System Model DS 450 high-speed tabulators in the State of Michigan. Moved by Van Langevelde; supported by Shinkle. Ayes: Bradshaw, Van Langevelde, Shinkle. Nays: None. Motion carried.
3. The Board approved the use of the Okidata Model B432DN printer for the ES&S EVS 6010 Voting System Model DS 850 high-speed tabulators in the State of Michigan. Moved by Shinkle; supported by Van Langevelde. Ayes: Bradshaw, Van Langevelde, Shinkle. Nays: None. Motion carried.
4. The Board approved the use of injection-molded ABS plastic for use with the collapsible ballot box used with the ES&S EVS 6010 Voting System Model DS200 tabulator in the State of Michigan. Moved by Van Langevelde; supported by Shinkle. Ayes: Bradshaw, Van Langevelde, Shinkle. Nays: None. Motion Carried.

Agenda Item: Such other and further business as may be properly presented to the Board.

The Board recognized Colleen Pero and Denise Barton for their service to the Board of State Canvassers.

Adjourned: 10:21 a.m.